



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2021-0472; FRL-9646-02-R4]

#### Air Plan Approval; North Carolina; Repeal of Delegation Authority

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of North Carolina's Department of Environmental Quality (DEQ), Division of Air Quality (DAQ or Division), via a letter dated April 13, 2021. This rulemaking addresses the repeal of a State regulation related to delegation of authority and removal of the regulation from the North Carolina SIP. EPA is finalizing approval of these changes pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective [Insert date 30 days after date of publication in the **FEDERAL REGISTER**].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2021-0472. All documents in the docket are listed on the [www.regulations.gov](https://www.regulations.gov) web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](https://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR**

**FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8966. Mr. Febres can also be reached via electronic mail at [febres-martinez.andres@epa.gov](mailto:febres-martinez.andres@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On April 13, 2021, the State of North Carolina submitted changes to the North Carolina SIP for EPA's approval.<sup>1</sup> Through this final rulemaking, EPA is approving changes to the North Carolina SIP related to 15A North Carolina Administrative Code (NCAC) Subchapter 02D, Rule .0615, *Delegation*.<sup>2</sup> The April 13, 2021, SIP revision removes the aforementioned regulation from the SIP because the regulation is unnecessary and has been repealed at the state level.

Through a Notice of Proposed Rulemaking (NPRM), EPA proposed to approve these changes on March 31, 2022. *See* 87 FR 18759. More details on North Carolina's April 13, 2021, submission and EPA's rationale for approving the aforementioned changes can be found in the March 31, 2022, NPRM. Comments on the NPRM were due on or before May 2, 2022. No comments were received on the March 31, 2022, NPRM.

### **II. Incorporation by Reference**

In this document, EPA is finalizing regulatory text that includes incorporation by reference. Specifically, EPA is finalizing the removal of 15A NCAC 02D, Rule .0615,

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<sup>1</sup> EPA received the submittal on April 14, 2021, and for clarity, refers to the submission per its "letter date" of April 13, 2021, throughout this notice.

<sup>2</sup> EPA notes that the Agency received several revisions to the North Carolina SIP that were transmitted with the same April 13, 2021, cover letter. EPA will be considering action for these other SIP revisions in separate rulemakings.

*Delegation*, from the North Carolina State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made and will continue to make the SIP generally available at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

### **III. Final Action**

EPA is finalizing the approval of changes to the North Carolina SIP. Specifically, for the reasons described in the March 31, 2022, NPRM, EPA is finalizing the removal of 15 NCAC 02D, Rule .0615, *Delegation*, from the North Carolina SIP.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication in the FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 20, 2022.

**Daniel Blackman,**  
*Regional Administrator,*  
*Region 4.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

## **PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart II – North Carolina**

#### **§ 52.1770 [Amended]**

2. In § 52.1770(c), amend Table (1) “EPA Approved North Carolina Regulations” by removing the entry for “Section .0615.”

[FR Doc. 2022-11290 Filed: 5/25/2022 8:45 am; Publication Date: 5/26/2022]